## Internal Revenue Service

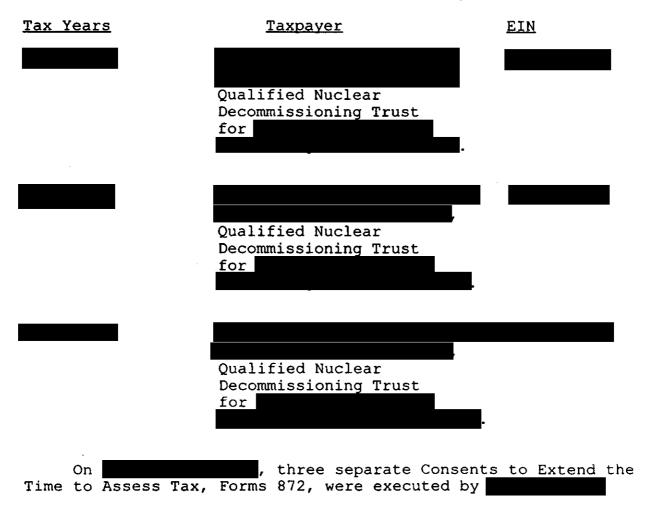
# memorandum

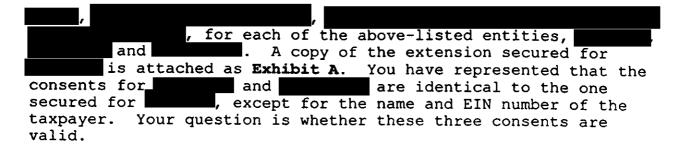
	date:	February 28, 2000
t	:0:	Internal Revenue Service, Examination Division
fro		Alice M. Harbutte, Special Trial Attorney Western Region, Denver, Colorado
subjec	-	Statute Extensions, Forms 872 Forms 1120-ND, Total and taxable years
This memorandum is in response to your request that our office review the statute extensions, Forms 872, that have been secured from with respect to three separate Forms 1120-ND, Return for Nuclear Decommissioning Funds and Certain Related Persons, filed for the taxable year by and .		
		ISSUE
1 F	1. Whether three statute extensions, Forms 872, that were ecured by the examination division for three separate Forms 120-ND, Return for Nuclear Decommissioning Funds and Certain elated Persons, for the taxable years and and were roperly executed by the taxpayer and consititue valid xtensions.	
		CONCLUSION
ł a	and however and	The Forms 872 extending the statute for the , Forms 1120-ND, are properly worded. We recommend, that you verify in writing with the trustee, that has the authority to Forms 872 on behalf of these entities.

#### **FACTS**

A Form 1120-ND, Return For Nuclear Decommissioning Funds and Certain Related Persons, is a tax return that is required to be filed by qualified funds that are created by public utilities to pay the future costs of decommissioning nuclear power plants. The Form 1120-ND is used to report contributions received, income earned, payment of the administrative expenses of the fund, the tax on income earned, and information on whether any acts of self-dealing have occurred during the tax year. A Form 1120-ND must also be filed by trustees or disqualified persons who engage in acts of self-dealing with the fund. A Form 1120-ND must be filed within two and one-half months after the close of the taxpayer's tax year. A separate nuclear decommissioning fund is required for each electing taxpayer and for each nuclear power plant with respect to which an electing taxpayer possesses a qualifying interest.

The following Forms 1120-ND are currently under audit:





#### **DISCUSSION**

I.R.C. § 6501 (a) sets out the general rule that taxes must be "assessed within 3 years after the return was filed \* \* \*." However, the parties may consent to extend the statute of limitations pursuant to section 6501(c)(4). Absent a valid section 6501 (c)(4) agreement, the statute of limitations, is not extended and the audit must be completed within 3 years from the date the date the return was filed. A return filed before the due date is considered filed on the date it is due. Section 6501 (b)(1). A Form 872, Consent to Extend the Time to Assess Tax, is the form used by the Service to extend the period for assessment to the specific date specified on the form.

In order to be valid, the Form 872 must be properly executed by the taxpayer. When the taxpayer is an entity, the person signing the form must have the authority to sign on behalf of that entity. The extensions secured with resepct to and and properly worded. We are not able to determined based upon the facts provided whether these forms were executed by a person with authority.

The information provided by you indicates that

was delegated the authority to sign all federal and state income, excise, property and sales/use tax returns and statute extenstions by

's parent company

's parent company

returns in question are for decommissioning trusts. The fund is maintained by a trustee who also keeps the books and records for the fund.

from

and are not part of the consolidated tax return filed by

Thus, the delegation provided by

not apply to the Forms 1120-ND's in question.

As a result, we recommend that you verify, in writing, with the and trustee, that has authority to execute Forms 872 on behalf of these entities.

### CONCLUSION

If you have any questions concerning this matter please call Special Trial Attorney Alice M. Harbutte at

Special Trial Attorney Western Region

Denver, Colorado